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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,046	01/11/2002	John Addink	100302.0016US1	8668
34284	7590	03/28/2005	EXAMINER	
ROBERT D. FISH RUTAN & TUCKER LLP 611 ANTON BLVD 14TH FLOOR COSTA MESA, CA 92626-1931			RODRIGUEZ, PAUL L	
		ART UNIT		PAPER NUMBER
		2125		

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/031,046	ADDINK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Paul L Rodriguez	2125	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 February 2005 and 01 July 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5,7,8,10-19 and 21-28 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5,7,8,10-19 and 21-28 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 01 July 2004 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

**DETAILED ACTION**

1. The appeal brief filed 2/22/05 has been received and considered. Claims 1-5, 7, 8, 10-19 and 21-28, as presented in the amendment filed 7/1/04, are presented for examination (as per the appeal brief), therefore the finality of the office action dated 9/10/04 has been withdrawn.

2. In view of the Appeal Brief filed on 2/22/05, PROSECUTION IS HEREBY REOPENED. Previous grounds are repeated and new grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

3. The Examiner would like to point out that the advisory action (dated 12/7/04), sent in response to the after final amendment submitted by applicant on 11/10/04 was considered proper. Through the advisory action and a telephone interview conducted 1/6/05, the Examiner has attempted to point out that the amendment to claims 1 and 10 submitted 11/10/04 changed the scope of the invention from what was previously presented in claims 27 and 28. The claims presented for examination, prior to the final office action (7/1/04) claimed "a communication

system that exchanges monitoring information between the irrigation controller and a government agency”, “wherein the monitoring information includes at least one of a start time, a run time, water flow data, and water pressure data”. It was the Examiners position that the claim language was broad enough to read on an exchange of monitoring information either from the irrigation controller to the government agency or from the government agency to the irrigation controller, because the claim simply recited a communication system that exchanges monitoring information between. The proposed amendment submitted 11/10/04 recited “a communication system that sends at least one of a start time, a run time, water flow data, and water pressure data from the irrigation controller and a government agency”. This amendment not only changed the scope of the data flow but it also changed the type of data, which was no longer monitoring information. Because there was a change in scope, further search and or consideration was deemed proper by the Examiner and therefore resulted in an advisory action.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 18 recites the limitation "the water usage data" in line 1. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-5, 10, 19, 21, 22, 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Nawathe et al (U.S. Pat 5,647,986). The claimed invention reads on Nawathe et al as follows:

Nawathe et al discloses (claim 1) an irrigation system (figure 4, col. 13 lines 20-44, figure 12, col. 20 lines 18-22, figure 14) comprising each of an irrigation controller (reference number 96) and a water application device (reference number 100, figure 4, figure 14) physically situated at a location of a user (col. 24 lines 40-46, 60-65), the controller at least partially controlling the water application device (col. 23 line 14 – col. 24 line 15), a communication system that exchanges monitoring information between the irrigation controller and a government agency (col. 25 lines 20-37) wherein the communication system comprises a public, packet switched network (col. 14 lines 7-16, col. 24 line 40 – col. 25 line 24, col. 28 lines 51-61, col. 29 lines 29-48), (claim 2) wherein the exchange of monitoring information with the irrigation controller and the government agency is bi-directional (col. 24 lines 66-67), (claim 3) further comprising a microprocessor disposed in the irrigation controller (reference number 96), that facilitates the

exchange of monitoring information between the irrigation controller and the government agency (col. 25 lines 20-37), (claim 4) further comprising a microprocessor disposed in a unit separate from the irrigation controller, that facilitates the exchange of monitoring information between the irrigation controller and the government agency (reference number 260, 257, col. 28 lines 51 – col. 29 line 48), (claim 5) further comprising a storage device that stores data at the user location (reference number 98), (claim 10) a method of operating an irrigation system (col. 13 line 20 – col. 14 line 16, col. 23 line 14 – col. 24 line 15) comprising physically situating each of an irrigation controller (reference number 96) and a water application device (reference number 100, figure 4, 14) at a location of a user (col. 24 lines 40-46, 60-65), utilizing the controller to at least partially control the water application device (figure 4, 14, col. 23 line 14 – col. 24 line 15), providing a first communication system comprising a public, packet switched network (col. 25 lines 20-37) coupling the irrigation controller and a government agency using the first communication system (col. 14 lines 7-16, col. 24 line 40 – col. 25 line 24, col. 28 lines 51-61, col. 29 lines 29-48), exchanging monitoring information between the irrigation controller and the government agency (col. 24 lines 66-67, col. 25 lines 20-37), (claim 19) further comprising coupling the user and a distal computer using a third communication system (col. 29 lines 29-48), (claim 21) further comprising a microprocessor sending a warning to the user via a second communication system when an aspect of the irrigation system falls outside of a predetermined parameter (col. 21 lines 55-58, col. 24 lines 40-65), (claim 22) further comprising a microprocessor preventing an operation of the irrigation system when the irrigation system falls outside of a predetermined parameter (col. 21 lines 55-58), (claim 27, 28) wherein the monitoring information includes at least one of a start time, a run time, water flow data, and

water pressure data (usage data, col. 25 lines 25-28). Examiner would like to point out that any reference to specific figures, columns and lines should not be considered limiting in any way, the entire reference is considered to provide disclosure relating to the claimed invention.

9. Claims 1, 4, 5, 10, 12-17, 19, 21, 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller et al (U.S. Pat 5,479,339). The claimed invention reads on Miller et al as follows:

Miller et al discloses (claim 1) an irrigation system (abstract) comprising each of an irrigation controller (reference number 14) and a water application device (reference number 16) physically situated at a location of a user (figure 1), the controller at least partially controlling the water application device (col. 2 line 60 – col. 3 line 34), a communication system that exchanges monitoring information between the irrigation controller and a government agency (col. 7 lines 52-61) wherein the communication system comprises a public, packet switched network (col. 2 lines 60 – col. 3 line 7, col. 4 lines 60-67, col. 5 line 50 – col. 6 line 6), (claim 4) further comprising a microprocessor disposed in a unit separate from the irrigation controller, that facilitates the exchange of monitoring information between the irrigation controller and the government agency (col. 6 lines 1-6), (claim 5) further comprising a storage device that stores data at the user location (reference number 27), (claim 10) a method of operating an irrigation system (abstract) comprising physically situating each of an irrigation controller (reference number 14) and a water application device at a location of a user (reference number 16), utilizing the controller to at least partially control the water application device (col. 2 line 60 – col. 3 line 34), providing a first communication system comprising a public, packet switched network (col.

4 lines 60-67, col. 5 line 67 – col. 6 line 6), coupling the irrigation controller and a government agency using the first communication system (col. 7 lines 52-61, use of a modem) and exchanging monitoring information between the irrigation controller and the government agency (col. 7 lines 52-61, weather data), (claim 12) further comprising providing the controller with a microprocessor programmed to receive additional information from a distal computer via a second communication system (col. 4 lines 53-67, col. 5 lines 9-13), and the microprocessor determining an irrigation schedule based at least in part on landscape irrigation operating information from the user (col. 10 lines 55-67, col. 2 lines 17-33 discloses that ETo data is derived based upon the type of plant) and the additional information from the distal computer (col. 5 lines 9-13, budget), (claim 13) further comprising providing the controller with local water usage data; and the microprocessor determining an irrigation schedule based at least in part on the water usage data (col. 3 lines 9-34, col. 4 lines 45-50), (claim 14) wherein the step of determining an irrigation schedule further includes the microprocessor computing a desired quantity of water to be applied to a landscape at the user's location for a specific period of time (“projected usage”, col. 3 lines 9-21, col. 3 lines 35-42) (claim 15) wherein the period of time is at least one day (col. 11 lines 8-30), (claim 16) wherein the additional information from the distal computer includes weather data, and further comprising the microprocessor computing an ETO value (col. 5 line 67 – col. 6 line 6, col. 6 line 59 – col. 8 line 25), (claim 17) further comprising the microprocessor comparing the ETO value to a desired quantity of water applied to the landscape (col. 6 lines 31-45), (claim 19) further comprising coupling the user and a distal computer using a third communication system (reference number 32, col. 4 lines 53-67), (claim 21) further comprising a microprocessor sending a warning to the user via a second

communication system when an aspect of the irrigation system falls outside of a predetermined parameter (col. 6 lines 46-48), (claim 23) further comprising a step of transmitting information to a distal computer such information comprising a calculated estimate of water actually applied at a station for a time period (col. 11 lines 20-28). Examiner would like to point out that any reference to specific figures, columns and lines should not be considered limiting in any way, the entire reference is considered to provide disclosure relating to the claimed invention.

10. Claims 1-5, 10, 12-15, 18 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Collins (U.S. Pat 6,402,048). The claimed invention reads on Collins as follows.

Collins discloses (claim 1) an irrigation system (figure 1) comprising each of an irrigation controller (reference number 100) and a water application device (reference number 102) physically situated at a location of a user (figure 5, col. 9 line 64 – col. 10 line 42), the controller at least partially controlling the water application device (col. 10 lines 1-60), a communication system that exchanges monitoring information between the irrigation controller and a government agency wherein the communication system comprises a public, packet switched network (col. 20 lines 34-58, Examiner considers the ETo information as monitored information), (claim 2) wherein the exchange of monitoring information with the irrigation controller and the government agency is bi-directional (Internet is inherently bi-directional, col. 20 lines 51-58), (claim 3) further comprising a microprocessor (reference number 170, 214) disposed in the irrigation controller, that facilitates the exchange of monitoring information between the irrigation controller and the government agency (col. 20 lines 51-58), (claim 4) further comprising a microprocessor disposed in a unit separate from the irrigation controller,

that facilitates the exchange of monitoring information between the irrigation controller and the government agency (col. 20 lines 51-58, Inherent, information transferred to the irrigation controller via the Internet, a second unit at the government agency would require an Internet capable device, which are known to comprise a microprocessor), (claim 5) further comprising a storage device that stores data at the user location (reference number 172, 174), (claim 10) a method of operating an irrigation system (abstract), comprising physically situating each of an irrigation controller (reference number 100) and a water application device (reference number 102) at a location of a user (figure 5, col. 9 line 64 – col. 10 line 42), utilizing the controller to at least partially control the water application device (col. 10 lines 1-60), providing a first communication system comprising a public, packet switched network (col. 20 lines 34-58) coupling the irrigation controller and a government agency using the first communication system (col. 20 lines 51-58), exchanging monitoring information between the irrigation controller and the government agency (col. 20 lines 34-58, Examiner considers the ETo information as monitored information), (claim 12) further comprising providing the controller with a microprocessor programmed to receive additional information from a distal computer via a second communication system (col. 10 lines 23-33, col. 21 line 11 – col. 24 line 54, remote programming via 110), and the microprocessor determining an irrigation schedule based at least in part on landscape irrigation operating information from the user and the additional information from the distal computer (col. 14 lines 25-50), (claim 13) further comprising: providing the controller with local water usage data; and the microprocessor determining an irrigation schedule based at least in part on the water usage data (col. 19 line 9 – col. 20 line 32 and claim 16), (claim 14) wherein the step of determining an irrigation schedule further includes the

microprocessor computing a desired quantity of water to be applied to a landscape at the user's location for a specific period of time (col. 29 line 53 – col. 30 line 54, claim 16), (claim 15) wherein the period of time is at least one day (col. 12 line 46-64, col. 24 lines 38-44), (claim 18) wherein the water usage data includes water pressure data (col. 13 lines 6-13) and (claim 19) further comprising coupling the user and a distal computer using a third communication system (col. 10 lines 7-11). Examiner would like to point out that any reference to specific figures, columns and lines should not be considered limiting in any way, the entire reference is considered to provide disclosure relating to the claimed invention.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 7, 8, 11 and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al (U.S. Pat 5,479,339) in view of Peek et al (U.S. Pat 6,343,255).

Miller et al teaches most all of the instant invention as applied to claim 1 and 10 above and also teaches wherein the irrigation operating information includes at least one of an irrigation start time, and irrigation run time, an irrigation water flow value, and an irrigation water pressure value (col. 3 lines 35-40, col. 5 line 41 – col. 5 line 6).

Miller et al fails to teach (claim 7) wherein the communication system comprises a two-way pager, (claim 8) wherein the communication system comprises a web page interface, (claim 11) entering landscape irrigation operating information into a personal computer and the personal computer transmitting the information to the irrigation controller via a second communication system (claim 24) wherein the information transmitted to the distal computer further includes a relationship between the calculated estimate of water actually applied at a station for a time period, and a computed ETo for the station for the time period, (claim 25) sending information from a distal computer to the government agency, such information including irrigation operating information and (claim 27, 28) wherein the monitoring information includes at least one of a start time, a run time, water flow data and water pressure data.

Peek et al teaches (claim 7) wherein the first communication system comprises a two-way pager (col. 8 lines 49-58, known pager functions), (claim 8) wherein the first communication system comprises a web page interface (col. 7 lines 47-50, figure 8, provide Internet interfaces for displaying data, considered a web page), (claim 11) entering the landscape irrigation operating information into a personal computer and the personal computer transmitting the information to the irrigation controller via the second communication system (col. 4 lines 9-

14, col. 7 lines 4-13), (claim 24) wherein the information transmitted to the distal computer further includes a relationship between the calculated estimate of water actually applied at a station for a time period, and a computed ETo for the station for the time period (col. 8 lines 9-48), (claim 25) sending information from the distal computer to the government agency, such information including irrigation operating information (col. 6 lines 27-46, because of the various modes of communication, especially the Internet, information being sent to any destination would be obvious) and (claim 27, 28) and wherein the monitoring information includes at least one of a start time, a run time, water flow data and water pressure data (col. 5 lines 41-53).

Miller et al and Peek et al are analogous art because they are both related to a system and method of performing irrigation control.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the communications of Peek et al in the irrigation controller of Miller et al because Peek et al teaches an irrigation system that can provide accurate microclimate information from a plurality of weather stations, can receive notification if weather conditions could cause damage to crops, and receives customized information that reflects the particular crop, field configurations and weather conditions, that will assist the user with proper application of irrigation to crops, which would increase crop production and minimize crop losses (col. 3 line 58 – col. 4 lines 32).

*Response to Arguments*

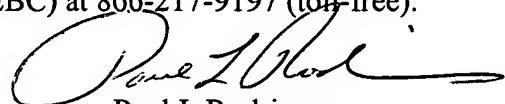
13. Applicant's arguments filed 7/1/04 with regards to the rejection based upon Collins (U.S. Pat 6,402,048) have been fully considered and where responded to in the final office action of 9/10/04, the Examiners position regarding these arguments has not changed.

***Conclusion***

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul L Rodriguez whose telephone number is (571) 272-3753. The examiner can normally be reached on 6:00 - 4:30 T-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo P Picard can be reached on (571) 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Paul L Rodriguez  
Primary Examiner  
Art Unit 2125

PLR  
3/22/05